

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TURNER MYER, III,

Petitioner,

v.

TDCJ-CID DIRECTOR,

Respondent.

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Case No. 6:18-CV-648-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Petitioner Turner Myer, III, an inmate proceeding *pro se*, filed the above-styled and numbered petition for writ of habeas corpus. This case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On November 19, 2019, the Magistrate Judge issued a Report and Recommendation (Docket No. 34), recommending that the petition be dismissed as successive. *Id.* a 2. Petitioner filed objections on December 5, 2019. Docket No. 36.

In his objections, Petitioner does not object to any specific portion of the Magistrate Judge's report and recommendation and instead restates his claim that he is actually innocent. But these claims do not dispute the Magistrate Judge's conclusions that the petition is successive and that the Court lacks jurisdiction to consider his claims until he obtains permission from the Fifth Circuit to file a successive petition. *See Crone v. Cockrell*, 324 F.3d 833, 836 (5th Cir. 2003). Petitioner's objections therefore fail.

Having made a *de novo* review of the objections raised by Petitioner to the Magistrate Judge's Report, the Court is of the opinion that the findings and conclusions of the Magistrate

Judge are correct and Petitioner's objections are without merit. The Court therefore adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

Accordingly, it is hereby **ORDERED** that the Report and Recommendation (Docket No. 34) be **ADOPTED**. It is further

ORDERED that the petition for a writ of habeas corpus is **DISMISSED WITH PREJUDICE** as to its refiling without permission from the Fifth Circuit to file a successive petition, but without prejudice to its refiling once such permission is obtained. All motions not previously ruled on are **DENIED**. A certificate of appealability is **DENIED sua sponte**. The denial of the certificate of appealability relates only to an appeal of the present case and shall have no effect upon the Petitioner's right to seek permission from the Fifth Circuit to file a successive petition.

So ordered and signed on this
Jan 10, 2020


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE